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20350 7590 09/29/2009 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER				
SAINT CYR, JEAN D				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/824,625

Applicant(s)

SIE ET AL.

Examiner

JEAN D. SAINT CYR

Art Unit

2425

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-19 and 33-35 is/are allowed.
- 6) ☒ Claim(s) 20-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Double Patenting

Claims 1, 20, 33 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 12, 29, 33, 34 and 35 of U.S. Patent No. 7464392. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are claiming a common subject matter, as follows:

Claims 1, 20, 33 of '625 recite, 'determines whether a first time period spent budget based on the first number of viewings of the first program, the second number of viewings of the second program, the first point value, and the second point value exceeds a first time period viewing limit budget; prevents further viewings of the first program and the second program during the second time period if the second time period spent budget exceeds the second time period viewing limit budget,...', which reads on the claims 1, 12, 29, 33, 34, 35 of the US. Patent 7464392, 'determining whether the number of viewing exceeds the viewing limit...; preventing further viewings if the number of viewing exceeds the viewing limit '.

Allowable Subject Matter

Claims 1-19, 33-35 are allowed over prior art of record. The following is a statement of reasons for the indication of allowable subject matter: The art of record did not teach or suggest the claims taken as a whole and particular pertaining to the "counts a first number of viewings of a first program and a second number of viewings of a second program during the first time period the first program having a first point value and the second program having a second point value; prevents further viewings of the first program and the second program during the second time period if the second time period spent budget exceeds the second time period viewing limit budget combined with the roll over amount and inserts a pre-selected program".

With respect to independent claims 1 and 33, Rodriguez et al disclose the subscriber navigates an EPG menu presentation with an input device such as a remote control

device and selects a purchasable service by choosing the visual representation that corresponds to the desired service.

Garfinkle et al disclose a control system at the customer's site limit further access to the stored program after the limit has been reached; the stored program is erased after a predetermined interval or after a predetermined number of accesses or any combination thereof based on fixed criteria stored at the customer site; count of the number of times video data at a certain address location has been accesses; this limit data may comprise a time limit or limit the number of accesses to data or both, the microprocessor issues a command to controller 44 to erase the video data stored in the memory or to otherwise block access to the data by the television set.

Levenson et al disclose after entry of the child's access code, the device prompts for the weekly time allowance for that child, by displaying "A1." The allowance hours and minutes is input with the number keys, followed by "ENTER. ", the time remaining in a weekly time allowance is set to the initial value of the time allowance on midnight of day 7. However, the operation of the device may be changed so that the initial value of the weekly time allowance is added to the time remaining at day 7, thereby permitting a child to "save up" time from one viewing period to the next. Implementation of this Roll Over feature involves first pressing the "LOOK" key while in PARENT MODE,

But Rodriguez in view of Garfinkle further in view of Levenson and any of cited references did not teach or suggest , alone or in combination the feature of "counts a first number of viewings of a first program and a second number of viewings of a second program during the first time period the first program having a first point value and the second program having a second point value; prevents further viewings of the first program and the second program during the second time period if the second time period spent budget exceeds the second time period viewing limit budget combined with the roll over amount and inserts a pre-selected program" as recited in combination with other features of independent claims 1 and 33.

The dependent claims 2-19 and 34-35 are allowed because are further limit independent/parents claims.

Response to Amendment

This action is in response to applicant's amendment filed on 05/19/2009. claims 1-35 are still pending in the current application. This action is made FINAL.

Response to Arguments

Applicant's arguments with respect to independent claims 1 and 33 were persuasive, but they were not persuasive for independent claim 20. For claim 20, Applicant argues that the cited reference did not preventing further viewings if the number of viewings exceeds the defined program viewing limit.

However, Garfinkle et al disclose a control system at the customer's site limit further access to the stored program after the limit has been reached, count of the number of times video data at a certain address location has been accesses; this limit data may comprise a time limit or limit the number of accesses to data or both, the microprocessor issues a command to controller to erase the video data stored in the memory or to otherwise block access to the data by the television set. As a result, this action is final.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-22, 25-28, 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez et al in view of Garfinkle et al and further in view of Levenson, US No. 5331353.

Re claim 20, Rodriguez et al disclose explicitly receiving linearly-scheduled programs with predetermined rights wherein the linearly-scheduled programs are distributed according to a linear schedule including multiple channels that simultaneously distribute the linearly-scheduled programs (see fig.11; the subscriber navigates an EPG menu presentation with an input device such as a remote control device and selects a purchasable service by choosing the visual representation that corresponds to the desired service; type of purchasable bi-directional service offered by a vendor comprises a finite number of instantiations according to the resources and/or number of individuals that the vendor has to render the service from the remote location; that means the programs are linearly-scheduled and users can watch a program for a specific number of time);

receiving parental control rules from an end user using a viewing limit configuration menu, wherein the parental control rules(The PIN access entry icon may be displayed as a result of the user entering a first PIN access number to allow session purchases of BC services comprising communication of adult material, in accordance with the rating of the BC service. Alternative icons or warning notices or messages alerting the user to PIN access entry requirements may also be employed, 0142; he BSPG presentation 670 is additionally configurable to control the behavior and presence of the bi-directional services links 676 based on the parental control status of the DHCT 16 as maintained by the navigator 455 application, 0145):

curtail the predetermined rights to create defined program viewing (the user may select the service link 676 to the target service, but the BSPG presentation 670 will display a pop-up barker indicating that the service is not available because it has been blocked by parental control, 0145).

But Rodriguez et al did not explicitly disclose the parental control rules define program viewing limits for one or more time periods; and

a program viewing limit control system that: counts a number of viewings of a program during the one or more time periods;

determines whether the number of viewings exceeds the defined program viewing limits for the one or more time periods; and

prevents further viewings of the program if the number of viewings exceeds the defined program viewing limits for the one or more time periods;

However, Garfinkle et al disclose the parental control rules define program viewing limits for one or more time periods; and a program viewing limit control system(a control system at the customer's site limit further access to the stored program after the limit has been reached, col.2, line 36-38) that:

the parental control rules curtail the predetermined rights to create defined program viewing limits(the stored program is erased after a predetermined interval or after a predetermined number of accesses or any combination thereof based on fixed criteria stored at the customer site, col.2, lines 27-29); and

counts a number of viewings of a program during the one or more time periods (count of the number of times video data at a certain address location has been accessed, col.4, lines 8-10);

determines whether the number of viewings exceeds the defined program viewing limits for the one or more time periods wherein the one or more time periods includes a

first time period with a scheduled start time and a scheduled stop time (see fig.3, element 54, limit reached?);

prevents further viewings of the program if the number of viewings exceeds the defined program viewing limits for the one or more time periods and inserts a pre-selected (this limit data may comprise a time limit or limit the number of accesses to data or both, the microprocessor issues a command to controller 44 to erase the video data stored in the memory or to otherwise block access to the data by the television set, col.4, lines 32-48).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to modify the invention of Rodriguez in introducing count of the number of times video data at a certain address location has been accessed, as taught by Garfinkle, for the benefit of managing the viewing of contents.

And Levenson et al disclose the time remaining in a weekly time allowance is set to the initial value of the time allowance on midnight of day 7, paragraph 61; that means each time period has a starting time and a stopping time.

It would have been obvious for any person of ordinary skill in the art at that the invention was made to modify the system of Rodriguez in view of Garfinkle in introducing the time remaining in a weekly time allowance, as taught by Levenson, for the purpose of allowing the system to keep track of time allowance of a user.

Re claim 21, Rodriguez et al wherein the parental control rules define program viewing limits based on one or more criteria selected from the group consisting of time period, program content, or a combination of time period and program content (purchase a specific BC service for a price over a period of time, 0085).

Re claim 22, Rodriguez et al disclose wherein the program viewing limits

can be set to zero for adult content (BC services under the "adult" category, such as, for example, a feature Suzie Floozy displayed in the display of an adult BC service in a BSPG or EPG GUI presentation, are displayed with a lock or PIN icon next to it to reflect PIN access authorization to view this media presentation, 0142; that means authorized users can watch that content).

Re claim 25, Rodriguez et al teach wherein the program viewing limits can be set low for a late night time period (during peak periods, such as 6:00 to 10:59 P.M. of the week nights, a BC service may exhibit higher pricing whereas during certain, 0149).

Re claim 26, Rodriguez et al disclose wherein the parental control programming system is adapted to receive and implement defined parental control rules for a plurality of end users and wherein the program viewing limit control system is adapted to apply the defined parental control rules to each of the plurality of end users (The navigator 455 also allows users to access various settings of the DHCT 16, including volume, parental control and VCR commands. Moreover, the navigator 455 provides users with television related menu options that correspond to DHCT 16 functions such as interactive program guides, channel blocking and/or displaying a BSPG purchase list, 0073; that means parental control for end users may apply).

Re claim 27, Rodriguez et al disclose wherein the programs comprise programs selected from group including pay per view video on demand (VOD) programs, near VOD programs, subscription VOD, cable television programs, satellite television programs, terrestrially broadcast programs, and music programs(see fig.2; external communication interfaces include router 372, satellite receiver 374, a satellite transceiver 276, a terrestrial receiver or antenna 378 and a bi-directional gateway 380 connected to backbone switch 382 that in turn is connected to components in head end 11 via Ethernet connection 332,0053).

Re claim 28, Rodriguez et al disclose wherein the time period can be based on years,

months, weeks, days, portions of days, or hours (see fig.7, \$45 for 60mn; see fig.7, effective now until August 31, 2001; that means based on month).

Re claim 30, Rodriguez et al disclose wherein the computing device comprises a device selected from the group including a set-top box, a personal video recorder, a video server, a television having set-top box and/or PVR functionality built therein, a personal digital assistant, a portable media center, a portable viewing device, and a personal computing device (see fig.1, DHCT).

Re claim 31, Rodriguez et al did not explicitly disclose wherein the step of counting a number of viewings comprises counting a number of viewings viewed using all of the one or more end user viewing devices, and wherein the step of preventing further viewings comprises preventing further viewings for all of the one or more end user viewing devices if the number of viewings exceeds the viewing limit for the time period.

However, Garfinkle et al disclose wherein the step of counting a number of viewings comprises counting a number of viewings viewed using all of the one or more end user viewing devices, and wherein the step of preventing further viewings comprises preventing further viewings for all of the one or more end user viewing devices if the number of viewings exceeds the viewing limit for the time period(count of the number of times video data at a certain address location has been accesses, col.4, lines 8-10; this limit data may comprise a time limit or limit the number of accesses to data or both, the microprocessor issues a command to controller 44 to erase the video data stored in the memory or to otherwise block access to the data by the television set, col.4, lines 32-48).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to modify the invention of Rodriguez in introducing count of the number of times video data at a certain address location has been accessed, as taught by Garfinkle, for the benefit of managing the viewing of contents.

Re claim 32, is met as previously discussed with respect to claim 31.

Claims 24,29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Garfinkle further in view of Levenson and further in view of Casement, US No. 6144401.

Re claim 24, Rodriguez et al did not explicitly disclose wherein the program viewing limits can be set low for a time period after school.

However, Casement et al disclose wherein the program viewing limits can be set low for a time period after school (see fig.2E; the parental control is only locked the TV for two hours and 30 mn from 2:30 PM to 5:00 PM, this period of time correspond to after school and the television receiver is completely blocked and that situation will allow children to do their homework without trying to watch TV).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to implement wherein the program viewing limits can be set low for a time period after school into the system of Rodriguez in view of Garfinkle further in view of Levenson in introducing parental control is only locked the TV for two hours and 30 mn from 2:30 PM to 5:00 PM, as taught by Casement , for the purpose of giving time to children to do their homework.

Re claim 29, Rodriguez et al did not disclose wherein the portions of days comprise morning, afternoon, evening, night and prime time viewing period.

However, Casement et al disclose the user may specify the time to begin locking: the default time is 2:30pm, the time to end locking: the default time is 5pm,col.5, lines 9-11.

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to modify the system of Rodriguez in view of Garfinkle further in view of Levenson locking the TV from 2:30 PM to 5:00PM, as taught by Casement, for the benefit of locking the TV during a specific portion of the day.

Claims 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Garfinkle further in view of Levenson and further in view of Cragun, US No. 5973683.

Re claim 23, Rodriguez et al did not explicitly disclose wherein the program viewing limits can be set high for educational content.

However, Cragun et al disclose wherein the program viewing limits can be set high for educational content (a user profile may be set such that a child may view as many educational program as desired, col.12, lines 16-18; that means there is no limit in viewing programs concerning education, those programs can be set high).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to modify the system of Rodriguez in view of Garfinkle further in view of Levenson in introducing a child may view as many educational program as desired, for the purpose of allowing children to watch more educational contents.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean Duclos Saintcy whose phone number is 571-270-3224. The examiner can normally reach on M-F 7:30-5:00 PM EST. If attempts to reach the examiner by telephone are not successful, his supervisor, Brian Pendleton, can be reached on 571-272-7527. The fax number for the organization where the application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR

or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197(toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, dial 800-786-9199(IN USA OR CANADA) or 571-272-1000.

/Jean Duclos Saintcyr /

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Supervisory Patent Examiner, Art Unit 2425